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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,862	11/21/2003	Mattea H. Goldstein		2940
7590	08/04/2004		EXAMINER	
Hollstein Keating Cattell Johnson & Goldstein P.C. Willow Ridge Executive Office Park Suite 301 750 Route 73 South Marlton, NJ 08053			WELCH, GARY L	
			ART UNIT	PAPER NUMBER
			3765	
			DATE MAILED: 08/04/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/719,862	GOLDSTEIN, MATTEA H.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary L. Welch	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 November 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-3 is/are allowed.
- 6) Claim(s) 4-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osborne (U.S. 5,605,060) in view of Doi et al. (U.S. 4,748,078).

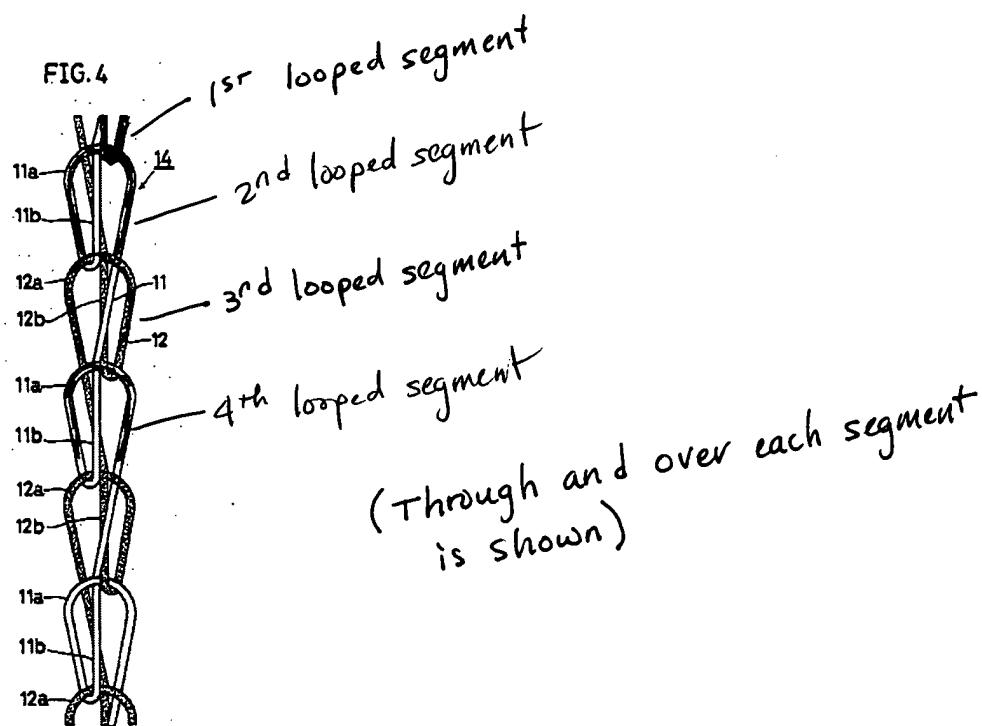
Osborne discloses a knitted article of clothing 10.

However, Osborne does not disclose the first row of plurality of aligned loops having a first row of a plurality of aligned looped segments formed from the clothing and extending along an outer surface of the clothing, the second looped segment in the row being positioned substantially over the adjacent first segment in the row, the third looped segment in the row being positioned substantially through and over the second looped segment, the fourth looped segment in the row being positioned substantially through and over the third looped segment, and each of the following looped segments in the plurality of aligned looped segments being positioned substantially through and over each of its respective proceeding looped segment in the row.

Doi et al. discloses warp knitted lace fabrics used in the construction of undergarments. The lace fabric is comprised of a first row of a plurality of aligned looped segments formed from the clothing and extending along an outer

surface of the clothing, the second looped segment in the row is positioned substantially over the adjacent first segment in the row, the third looped segment in the row is positioned substantially through and over the second looped segment, the fourth looped segment in the row is positioned through and over the third looped segment and each of the following looped segments in the plurality of aligned looped segments is positioned substantially through and over each of its respective preceding looped segment in the row (see attached figure). The fabric disclosed by Doi et al. prevents a single yarn breakage from becoming a run thereby running the garment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the knitted shirt of Osborne from the warp lace knitted fabric taught by Doi et al. in order to provide a garment that is resistant to runs caused by a single yarn breakage.



Osborne teaches warp knitted shirts 10.

With regard to claims 5 and 7, the last looped segment in the row is secured via heat treatment (Col. 4, lines 28-58).

With regard to claim 6, the invention is disclosed in the above rejections (see Figure 8 showing a plurality of rows).

With regard to claims 8 and 9, the article of clothing is a shirt.

With regard to claim 10, the material is a stretchable material.

### ***Allowable Subject Matter***

3. Claims 1-3 are allowed.

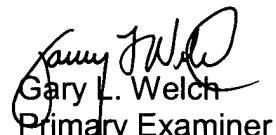
***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stewart '782 discloses an article of clothing having slits formed on the outer surface of the clothing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (703) 305-0451. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary L. Welch  
Primary Examiner  
Art Unit 3765

glw